

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
EVANSVILLE DIVISION

JOHN DOE)	
Plaintiff)	
)	
v.)	CASE NO. 3:21-cv-00144-JRS-MPB
)	
UNIVERSITY OF SOUTHERN INDIANA)	
Defendant)	

MOTION FOR LEAVE TO PROCEED UNDER PSEUDONYM

Plaintiff, by counsel, hereby moves the Court for leave to proceed in this cause of action under pseudonym. In support hereof, Plaintiff states the following:

1. Plaintiff, a nineteen-year-old black male and sophomore student at the University of Southern Indiana (“USI”), has filed his Complaint seeking both monetary damages and injunctive relief due to a procedurally flawed Title IX proceeding that, if not for the Temporary Restraining Order entered by the Vanderburgh Circuit Court and extended in this Court, would have resulted in his suspension from USI. At all times, Plaintiff has maintained that he did not violate USI’s Title IX policy and that the alleged sexual encounter with Jane Doe did not occur.¹

2. Given the highly sensitive nature of the subject matter underlying Plaintiff’s claims for relief, compelling reasons exist for allowing him to proceed under pseudonym. Not surprisingly, current law allows students in Plaintiff’s position to proceed anonymously under pseudonym. *See, e.g. Doe v. Ind. Univ. - Bloomington*, 2019 U.S. Dist. LEXIS 12966 (S.D. Ind. January 28, 2019); *Doe v. Purdue Univ.*, 321 F.R.D. 339, 341 (N.D. Ind. May 31, 2017); *Doe v. Univ. of Notre Dame Du Lac*, 2018 U.S. Dist. LEXIS 79778 (N.D. Ind. May 11, 2018).

¹ In his Complaint and other filings, Plaintiff has referred to his accuser as “Jane Doe” to respect her privacy.

3. “[T]he Southern District of Indiana has compiled several factors that courts consider to determine whether a ‘plaintiff’s interest in privacy is so significant as to outweigh the strong presumption favoring public identification of litigants.” *Doe v. Purdue Univ.*, 321 F.R.D. at 341 (citing *Doe v. Indiana Black Expo*, 923 F. Supp. 137, 140 (S.D. Ind. April 17, 1996)).

They are:

- whether the plaintiff is challenging governmental activity;
- whether the plaintiff would be required to disclose information of the utmost intimacy;
- whether the plaintiff would be compelled to admit his or her intention to engage in illegal conduct, thereby risking criminal prosecution;
- whether the plaintiff would risk suffering injury if identified;
- whether the party defending against a suit brought under an anonym would be prejudiced;

Id.

4. Nearly all of the factors favor Plaintiff’s use of a pseudonym in this litigation.

5. Plaintiff is clearly challenging governmental activity. USI is a public university.

Plaintiff challenges USI’s activity as described in the Complaint and other filings.

6. The record of USI’s Title IX investigation and adjudication contains allegations regarding Plaintiff’s prior sexual conduct, which constitutes information of utmost intimacy.

7. If identified, Plaintiff is certain to face irreparable injury to his reputation, even if ultimately exonerated of the allegations set forth by Jane Doe.

8. USI is well aware of Plaintiff’s true identity, and would face no prejudice if he is allowed to proceed under a pseudonym. Pursuant to USI’s own policy, the underlying investigation and adjudication that give rise to Plaintiff’s claims were, are and remain confidential.

9. To further ensure protection of his identity, Plaintiff requests that any papers filed with the Court containing his actual name be immediately sealed and remain under seal.

10. A proposed Order is supplied contemporaneously herewith.

WHEREFORE, Plaintiff respectfully requests that this Motion for Leave to Proceed Under Pseudonym be granted, that any papers filed with the Court containing Plaintiff's actual name be immediately sealed and remain under seal, and for all other relief just and proper in the premises.

Respectfully submitted,

ZIEMER, STAYMAN, WEITZEL & SHOULDERS, LLP

BY: /s/ Keith W. Vonderahe

Robert L. Burkart, 16664-82
Keith W. Vonderahe, 21908-82
Matthew S. Koressel, 35276-49
20 NW First Street, Ninth Floor
P. O. Box 916
Evansville, Indiana 47706-0916
Phone: (812) 424-7575
Fax: (812) 421-5089
rburkart@zsws.com
kvonderahe@zsws.com
mkoressel@zsws.com
Attorneys for the Plaintiff

CERTIFICATE OF SERVICE

I certify that on October 5, 2021, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

William P. Kealey, Esq.
wpk@stuartlaw.com

Joseph H. Harrison III, Esq.
jhh@stuartlaw.com

/s/ Keith W. Vonderahe
Keith W. Vonderahe